

JUL 11 2005

ATTORNEY DOCKET NO. BIODONGLE/SCH

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Scott C. Harris Art Unit: 2131
Serial No.: 09/712,398 Examiner: H. Mahmoudi
Filed : November 14, 2000
Title : SOFTWARE SYSTEM WITH A BIOMETRIC DONGLE FUNCTION

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APPLICANTS BRIEF ON APPEAL

Sir:

Applicant herewith files this Appeal Brief under 37 C.F.R. 41.37, thereby perfecting the Notice of Appeal that was originally filed on January 17, 2004. The sections required by the rules follow.

The present application qualifies for small entity status under 37 C.F.R. § 1.27. Please charge the \$170 fee for the Appeal Brief and a \$60 one month extension fee to deposit account 50-1387.

Real party in Interest

The inventor, Scott C. Harris, remains the real party in interest.

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Related Appeals and Interferences

There are no known related appeals and/or interferences.

Status of Claims

Claims 3-14 remain pending. All of the pending claims are appealed.

Status of Amendments

An amendment after final was filed on November 15, 2004. An advisory action indicated that this amendment would be entered.

Summary of Claimed Subject Matter

Claim 3 requires a special kind of computer program that stores encrypted information. An encrypted sequence is stored during installation. See generally page 9 lines 12-24. Personal information is obtained as part of the startup sequence for a computer program. This may be biometric information, see generally 8 lines 14-24; page 12, lines 23-24. The obtained biometric information as obtained is compared against the previously stored information, see page 13 lines 9-11. The computer is allowed to run at 430 if there is a match, see page 13 lines 14-15. Claim 3 further requires that the installation of the computer program includes entering the biometric code, sending that code to a server, and returning an encrypted sequence as encrypted information. This is part of the installation described above, see generally page 8 lines 14-24.

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Claim 7 similarly requires storing the encrypted information (see generally page 9 lines 12-24), obtaining personal information as part of the startup sequence (see page 12 lines 23-24), comparing the personal information (page 13 lines 9-11), allowing the computer to run normally if the information agrees (page 13 lines 14-15), but allowing a limited exception mode without establishing that the personal information agrees with the decrypted information. This is described on page 11 line 19 through page 12 line 4, where the limited run or "exception" mode is allowed.

Claim 8 requires installing a computer program, requesting the system to install, see page 5 beginning line 6, verifying whether the computer program is verified for installation, see generally page 7, lines 1-15, obtaining a reference biometric from the user see page 8 lines 9-16, and thereafter allowing execution of the program only if the entered information matches the reference biometric see generally page 8 lines 17-19 and other locations within the specification.

Grounds of the Rejection to be Reviewed on Appeal

Claim 7 is rejected under 35 U.S.C. 102b as allegedly being anticipated by Applebaum. Claims 8-14 are rejected as being anticipated by Brody.

Both of these rejections are appealed herein. All of these rejections are respectfully traversed.

Argument

The rejections under 35 U.S.C. 102

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Claim 7 rejected under 35 U.S.C. 102 as allegedly being unpatentable over Applebaum. With all due respect, it is suggested that this rejection is in error.

First, and prior to discussing the rejection, consider what is claimed by claim 7. Claim 7 defines storing encrypted information associated with a computer program, obtaining personal information as part of the start up sequence, reading the encrypted information and decrypting it to obtain decrypted information and comparing that personal information with the decrypted information, allowing the computer program to run normally only if the personal information agrees with the decrypted information in a specified way, and finally allowing the software to run in a limited exception mode without establishing that the personal information agrees.

Applebaum discloses an Internet appliance. The user is required to give biometric information see generally paragraph 52, to log on to that internet appliance. Alternatively, the user can identify themselves some other way. Encryption may be used to make the security more complete.

However, Applebaum describes the information appliance verifying the identity of

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